

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Monday, December 3, 2012 at
5:30 P.M.**

Council President Christopher T. Semonelli, Presiding

Vice President Robert J. Sylvia

Councillor Richard P. Adams

Councillor Bruce J. Long

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

EXECUTIVE SESSION-5:30 P.M.

- 1. Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Potential Litigation.**

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:33 pm.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 7:03 pm.

On motion of Vice President Sylvia, duly seconded, it was voted to reject the new Lamar offer and follow the time table of removal as previously directed; Council President Semonelli and Councillors Adams, Long and VonVillas voted YES; Vice President Sylvia and

Councillors Rodrigues and Santos voted NO to said motion.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

PUBLIC FORUM SESSION

2. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Dennis Klodner, 38 Sanderling Way, addressed the council congratulating them on the election. Mr. Klodner spoke in opposition to the Bay Ridge – Buck Road extension to Forest Avenue, explaining that it would cause too much traffic on Forest Avenue, creating a

safety issue.

Ronald Heroux, 51 Bay Ridge Drive, expressed concern that the proposed Buck Road extension will be a safety hazard. Mr. Heroux explained that the road is for emergency access and urges the Council to reconsider not making it a public road.

Alice Curran, 429 Forest Avenue, spoke in opposition to the Buck Road extension.

Shirley Saulnier, 2 Francisco Drive, addressed the Council speaking in support of the Buck Road extension. Ms. Saulnier noted that living off Forest Avenue, she has never been held up by traffic.

PRESENTATIONS

3. Recognition from the Council, re: Ted Clement, Executive

Director, Aquidneck Island Land Trust. (No documentation)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to begin said presentation.

Council President Semonelli presented Mr. Clement with a Town Tile expressing appreciation for all he has done for the Town.

4. Memorandum of Chief Doire, re: Fire Department Promotional Ceremony.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Fire Chief Ronald Doire announced the promotion of Lieutenant Robert McCall as Fire Marshall. Mr. McCall was sworn in by the Town

Clerk and pinned by a family member.

Fire Chief Ronald Doire announced the promotion of Firefighter Jonathan Reese as Fire Inspector/Lieutenant. Mr. Reese was sworn in by the Town Clerk and pinned by a family member.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to act as a Board of License commission.

ACTING AS A BOARD OF LICENSE COMMISSION

5. Application of J & S Enterprises, LLC dba Boss Man Burgers, 501 East Main Road for a Retailers Class BL Alcoholic Beverage License for the 2012-2013 licensing year. (NEW: Requires Advertising for Public Hearing and notice to abutters)

On motion of Vice President Sylvia, duly seconded, it was voted

unanimously to receive said application, advertise for Public Hearing and notify abutters for January 7, 2013, regular meeting of the board.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to reconvene as a Town Council.

Councillor Rodrigues requested that item #12 be heard under the regular meeting of the Council.

Councillor Santos requested that items #14 and #16 be heard under the regular meeting of the Council.

CONSENT

6. Approval of Minutes, re: Special Meeting, November 1, 2012.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said minutes.

7. Approval of Minutes, re: Regular Meeting, November 5, 2012.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said minutes.

8. Approval of Minutes, re: Special Meeting, November 17, 2012.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said minutes.

9. Approval of Minutes, re: Regular Meeting, November 19, 2012.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to approve said minutes.

10. Communication of Denise Panichas, Executive Director, The Samaritans of Rhode Island, re: Appreciation for support.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

11. Notice of Public Hearing from the Zoning Board of Review, Diane L. L'Heureux (owner), c/o her Attorney David P. Martland, Esquire, for a Variance from Section 603 to allow the creation of a lot with 25.73' of frontage/width where 150' is required, said real estate located at 127 Mitchells Lane and further identified as Lot 1 on Tax Assessor's Plat 123.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said notice of Public Hearing.

12. (Continued from November 5, 2012, Regular Meeting)

Memorandum of Chief Pesare thru Town Administrator, with enclosures, re: Traffic Study of intersection Wolcott Avenue and Reservoir Road. (Attached is a request by the Administration to continue said item to January 7, 2013, Regular Meeting of the Council)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Rodrigues asked for clarification on this request.

Town Administrator Shawn Brown, responding to Councillor Rodrigues, noted that the entire Wolcott Avenue/Reservoir Road area

is being reviewed and the recommendation in January will include a comprehensive evaluation.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to continue said matter to the January 7, 2013, Regular Meeting of the Council.

13. Communication of Town Administrator, with enclosures, re: Impact Fees.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

14. Communication of Finance Director, with enclosure, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

Councillor Santos questioned if the taxes were paid and if so does the taxpayer receive interest on the abatement?

Town Administrator Shawn Brown explained that the taxes were paid and there is not a state statute which requires the payment of interest.

15. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

16. Communication of Tax Assessor, with enclosure, re: Cancellation

of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

Councillor Santos questioned if the Tax Assessor is working with the Naval base to alleviate this problem?

Town Administrator Shawn Brown, responding to Councillor Santos, noted that the Tax Assessor is working with the Naval Base to correct the problem.

17. Resolution of the Council, re: Cancellation of taxes for certain Middletown taxpayers.

On motion of Vice President Sylvia, duly seconded, it was voted

unanimously to pass said resolution.

18. Applications five (5) from the following named persons, firms or corporations for Special Event Permits. (See Attached List)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to grant said Special Event permits.

ORDINANCES

19. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code, Title VII, Traffic Code, Stop Sign Intersection. (Wood Road and Oakwood Road)

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said ordinance on its first reading.

OTHER COMMUNICATION

20. Memorandum of Senator Louis P. DiPalma, re: Legislative Agenda for 2013.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to schedule a legislative agenda meeting and meeting with the School Committee in accordance with RIGL 16-2-21 on January 7, 2012; Legislative Agenda 6:00 pm to 6:30 pm; School Committee meeting 6:30 pm to 7:00 pm.

COMMUNICATION OF TOWN COUNCIL

21. Memorandum of Councillor Rodrigues, re: Discussion of the billboards and billboard revenue.

Councillor Rodrigues read the memorandum into the record, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Rodrigues explained that he placed the item on the docket because it is a revenue source. The issue was discussed in executive session and the majority decided not to keep the billboards.

Councillor VonVillas noted the issue was resolved in executive session.

Council President Semonelli explained that the Comprehensive Community Plan prohibits billboards, the issue has been discussed for many years and it is time for the billboards to be removed.

Vice President Sylvia noted the motion made in open session from the executive session. Mr. Sylvia noted that he concurs with Councillor Rodrigues concerning the billboards.

22. Memorandum of Councillor Rodrigues, re: Discussion of this Council's position of the proposed tolls on Sakonnet Bridge.

Councillor Rodrigues read the memorandum into the record, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Rodrigues expressed the need for showing the new Council's position on the toll issue. The tolls will impact Middletown residents and businesses.

Councillor VonVillas noted the prior Council had passed two resolutions in opposition to the tolls and expressed her support for a resolution in opposition to the Tolls from this Council.

Councillor Long noted his support of a resolution.

Council President Semonelli noted the impact of tolls on small businesses and the beach.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to direct the Town Clerk to prepare a resolution in opposition to the proposed tolls on the Sakonnet River Bridge.

Manuel Mello, 3 Beacon Terrace North, addressed the Council explaining that the tolls will hurt the town and the need to pressure legislators to keep the tolls off the Sakonnet River Bridge.

23. Memorandum of Councillor Rodrigues, re: Discussion of the FY 13 budget.

Councillor Rodrigues read the memorandum into the record, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Council President Semonelli noted that the previous Council and Administrator have done a lot of work regarding the budget. Mr.

Semonelli suggests this matter be directed to the new budget.

Councillor VonVillas explained that the Town is half way through the budget year and this should be addressed in the next budget process. There is no reason to look back, excellent management.

Councillor Rodrigues noted agreement with excellent management; however, explained there may be areas with an opportunity to save. Mr. Rodrigues asked for the current reserve fund balance.

Town Administrator Shawn Brown, responding to Councillor Rodrigues, noted that the fund balance amount will be provided at a future meeting. Mr. Brown explained that the budget is reviewed on a daily basis; the administration is always exploring ways to save money within the budget.

Councillor Long noted that the budget is reviewed on a daily basis; much of the budget supports the vision of the previous Council and

requests the motion to be withdrawn.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to continue this item to January 7, 2013 regular meeting for Council review.

TOWN ADMINISTRATOR COMMUNICATION

24. Communication of Town Administrator, with enclosures, re: Application for joint Middletown/Newport Enterprise Zone Designation.

Town Administrator Shawn Brown reviewed the communication, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication.

25. Resolution of the Council, re: Authorizing Town Administrator to submit joint application for Enterprise Zone Designation.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

26. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Addendum to the Tax Agreement between the City of Newport and the Town of Middletown.

Town Administrator Shawn Brown reviewed the memorandum, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

27. Resolution of the Council, re: Approving Addendum to the Tax Agreement between the City of Newport and the Town of Middletown.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

28. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: Easton's Point Sewer Spot Repair.

Town Administrator Shawn Brown reviewed the memorandum, entered here:

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown noted this is the final piece in resolving over flows at Wave Avenue. There are two phases of the project, spot repairs and slip lining.

Town Engineer Warren Hall noted that the spot repairs are in advance of the slip lining project; it will focus on individual problems in the sewer system.

Public Works Director Tom O'Loughlin reviewed a graph, entered here:

The graph plots out the sanity sewer overflow at the pump station.

Discussion centered around the accomplishment of reducing sewer overflows, the project did not have to go out to bond, the funding from the CIP and planning for the future.

Manuel Mello, 3 Beacon Terrace North, expressed concern that monies have been spent for the Esplande and Forest Avenue has not been addressed.

Town Administrator Shawn Brown, responding to Mr. Mello, noted that Forest Avenue has been deferred pending finalizing details regarding the Esplande.

29. Resolution of the Council, re: Award of Contract: Easton's Point Sewer Spot Repair.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to pass said resolution.

APPOINTMENTS TO BOARDS & COMMITTEES

30. Memorandum of Council President Semonelli, re: Nomination selection of Assistant Solicitor regarding Conflict Matters.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum and appoint Attorney J. Russell Jackson as Assistant Solicitor regarding Conflict Matters.

31. Memorandum of Council President Semonelli, re: Nomination selection of Assistant Solicitor – Conflict Prosecutor.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said memorandum and appoint Attorney Christopher Gontarz as Assistant Solicitor - Conflict Prosecutor.

32. Memorandum of Town Clerk, re: Appointment of Alternate Municipal Court Judge and Alternate Probate Judge.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to appoint Michael W. Miller as alternate Municipal Court Judge and Peter B. Regan as alternate Probate Judge.

33. Communication of Councillor Adams, re: Resignation from the Aquidneck Island Planning Commission.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and accept resignation.

34. Communication of Councillor Adams, re: Resignation as Ex-Officio Member of the Open Space & Fields Committee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and accept resignation.

35. Communication of Councillor Adams, re: Resignation from the Middletown Planning Board.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said communication and accept resignation.

36. Email communication of Anne Baptista, re: Resignation from the Open Space and Fields Committee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said email communication and accept resignation, as of December 31, 2012, with regret.

37. Memorandum of Ralph Thomas, Recording Secretary, Open Space and Fields Committee, re: Removal of a Member of the Open Space

and Fields Committee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously, to receive said memorandum and request the Town Clerk to contact Ms. Lambiase inquiring her intentions regarding her position on the Open Space and Fields Committee.

38. Appointment of one (1) member to the Middletown Committee for the Arts for a term expiring April 2015.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to appoint Richard Cambra to the Middletown Committee for the Arts for a term expiring April 2015.

39. Appointment of one (1) member to the Open Space and Fields Committee for a term expiring November 2015.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to appoint Michael Richard, Jr. to the Open Space and Fields Committee for a term expiring November 2015.

40. Appointment of Town Council representatives to various boards and commissions.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to appoint Council President Semonelli, Councillor Long and Councillor VonVillas as liaisons to the Audit Committee.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to continue the remaining liaison appointments to the January 7, 2013 Regular Meeting of the Council.

41. Adoption of Rules of the Council.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to receive said Rules of the Council.

Councillor Long noted that through the years Council's have passed policies and resolutions relating to conduct and requests that the Town Clerk research these policies/resolutions.

Discussion centered around the feasibility and time frame of the research.

Town Solicitor Michael W. Miller suggests that the Clerk review from the 1990's forward.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to request the Town Clerk to review Council records (policies/resolutions) dating back to the 1990's for

inclusion/attachments to the Council rules to be review by the Council at the January 22, 2013, Regular Meeting of the Council.

On motion of Vice President Sylvia, duly seconded it was voted unanimously to adopt the Council Rules, entered here:

**42. Discussion of December 17, 2012 Regular Meeting of the Council.
(No documentation)**

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to cancel the December 17, 2012 Regular Meeting of the Council.

On motion of Vice President Sylvia, duly seconded, it was voted unanimously to adjourn at 8:55 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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